

Notice of Allowability

Application No.

09/911,586

Examiner

CUONG T THAI

Applicant(s)

SCHMITT ET AL.

Art Unit

2173

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to June/30/2004 Amendment.
2. ☒ The allowed claim(s) is/are 33-70 (renumbered as 1-38, respectively).
3. ☒ The drawings filed on 24 July 2001 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 8
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

RAYMOND J. BAYERL
PRIMARY EXAMINER
ART UNIT 2173

DETAILED ACTION

1. This action is responsive to Amendment filed on June/30/2004.
2. The Amendment filed on Sept/30/2004 is improper because it does not correspond with the prior Amendment received on June/30/2004. Therefore, the Amendment filed on Sept/30/2004 has not been entered into the application. In addition, during the telephone conversation between the Examiner and Mr. Scott T. Weingaertner on Oct/12/2004, Applicants requested that the Examiner only consider the Amendment filed on June/30/2004 and not consider the Amendment filed on Sept/30/2004.
3. Claims 33-70 are presented for examination.
4. The IDS (Paper # 8) filed on April/26/2004 have been received and fully considered by the Examiner.

Examiner's Amendment

5. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. John P. Musone on October/18/2004.

In the claims:

Art Unit: 2173

Claim 33, line 4, insert "wherein programming language commands are made available to the user in the graphical editor and wherein the programming language commands are adapted to given hardware specifications" after "graphical editor;".

Claim 33, line 9, delete "whereby such commands may be executed, wherein programming language commands are made available to the user in the graphical editor, and wherein the programming language commands are adapted to given hardware specifications" after "code".

Allowable Subject Matter

6. Claims 33, 49, and 68-70 are allowed over the prior arts of records. Claims 34-48 and 65-66 are further limits of independent claim 33. Claims 50-64 and 67 are further limits of independent claim 49.

7. The following is an examiner's statement of reasons for allowance:

Examiner has carefully considered claims 33 and 49 of the presented application. Claim 49 has been allowed for the same reasons applied to claim 33, except for system instead of method claim. None of the cited art including Weinhofer (USPN: 6,442,442), Zhang et al. (USPN: 6,282,699), Stripf et al. (USPN: 6,263,487), DeBenedictictis et al. (USPN: 6,144,984), Wilson et al. (USPN: 6,289,252), Schwenke et al. (USPN: 6,553,268), Stine (USPN: 6,466,827), nor Lavallee et al. (USPN: 4,852,047) discloses a method for programming an industrial controller comprising the step of creating a

Art Unit: 2173

flowchart including a plurality of programming language commands with the use of a graphical editor, **wherein programming language commands are made available to the user in the graphical editor and wherein the programming language commands are adapted to given hardware specifications** (see claims 33 and 49).

Specially, Weinhofer is cited for a programming controller interface, which allow user to execute a particular command in order to perform a specific test in industrial environment. Weinhofer is lack of the teaching of creating a flowchart including a plurality of programming language commands with the use of a graphical editor, wherein programming language commands are made available to the user in the graphical editor and wherein the programming language commands are adapted to given hardware specifications.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance.".

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CUONG T THAI whose telephone number is (703) 308-7234 through the month of October, 2004 and at (571) 272-4056 thereafter.

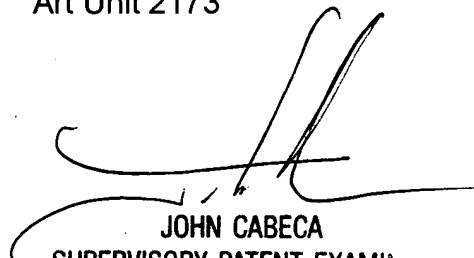
Art Unit: 2173

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Cabeca can be reached at (703) 308-3116 through the month of October, 2004 and at (571) 272-4048 thereafter. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

October 22, 2004.

CUONG T THAI
Examiner
Art Unit 2173



JOHN CABECA
SUPERVISORY PATENT EXAMINER
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